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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,155	11/05/2001	Modesto Tabares	9209-10	5291
20792	7590	11/19/2008	EXAMINER	
MYERS BIGEL, SIBLEY & SAJOVEC			CAO, DIEM K	
PO BOX 37428			ART UNIT	PAPER NUMBER
RALEIGH, NC 27627			2194	
			MAIL DATE	DELIVERY MODE
			11/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MODESTO TABARES and SAMEH TAMANY

Application 09/992,155
Technology Center 2100

Mailed: November 19, 2008

Before, MARIA VIGNONE, *Supervisory Trial Clerk*.

VIGNONE, *Supervisory Trial Clerk*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on October 28, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, STATUS OF CLAIMS

A review of the file finds that the status of the claims as provided in the Examiner's Answer mailed January 11, 2008, under the heading "Status of Claims" is unclear and/or is not consistent with the status of claims of record in accordance with 37 CFR 41.37(c)(1)(iii). The status of the claims as provided in both the Examiner's Answer and the Appeal Brief must be consistent with the last entered amendment. Each claim on appeal must be identified. *See also Manual of Patent Examining Procedure (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007)* for details.

A review of the last Office Action of record mailed July 30, 2007, finds that claims 45 and 46 are rejected according to the Office Action Summary Sheet, however, a review of the Action itself does not find any rejection of claims 45 and 46 set forth. Therefore, it is unclear if claims 45 and 46 are rejected.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed January 11, 2008;
- 2) to generate a new Examiner's Answer setting forth the correct status of claims and to correct other sections of the Answer as may be required;
- 3) to include the approval of the TC Director or his designee (as may be required for any new grounds of rejection); and
- 4) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

MTV

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